



~~February 20, 2007 CPC~~  
~~May 15, 2007 CPC~~  
~~June 19, 2007 CPC~~  
July 25, 2007 BS

STAFF'S  
REQUEST ANALYSIS  
AND  
RECOMMENDATION

07SN0227

Bruce M. Gallagher  
and  
Ronda B. Gallagher

Clover Hill Magisterial District  
5710 Qualla Road

REQUEST: Renewal of Conditional Use to permit a business in an Agricultural (A) District.

PROPOSED LAND USE:

A lawn care contractor's shop is currently being operated on site. The applicant proposes to continue use of the existing site while construction of a new shop is completed on property properly zoned for the use.

PLANNING COMMISSION RECOMMENDATION

RECOMMEND DENIAL.

STAFF RECOMMENDATION

Recommend approval for the following reason:

The use is proposed temporarily while construction of a new office and shop are completed on property properly zoned for the use.

(NOTE: CONDITIONS MAY BE IMPOSED OR THE PROPERTY OWNER MAY PROFFER CONDITIONS. THE CONDITIONS NOTED WITH "STAFF/CPC" WERE AGREED UPON BY BOTH STAFF AND THE COMMISSION. CONDITIONS WITH ONLY A "STAFF" ARE RECOMMENDED SOLELY BY STAFF. CONDITIONS WITH ONLY A "CPC" ARE ADDITIONAL CONDITIONS RECOMMENDED BY THE PLANNING COMMISSION.)

### PROFFERED CONDITIONS

- (STAFF) 1. This Conditional Use shall be granted to and for Bruce M. Gallagher and/or Ronda B. Gallagher, exclusively, and shall not be transferable or run with the land. (P)
- (STAFF) 2. The lawn care contractor's shop shall be located within the two (2) existing detached accessory structures (garage structure and shed). There shall be no further additions or expansions to the existing buildings to accommodate this use. (P)
- (STAFF) 3. The lawn care contractor's shop shall be permitted for a maximum of twelve (12) months from the date of approval of this request. (P)
- (STAFF) 4. There shall be no signs permitted to identify this use. (P)
- (STAFF) 5. Hours of operation shall be restricted to between 7 a.m. and 7 p.m. Monday through Saturday. No Sunday operation shall be permitted. (P)
- (STAFF) 6. Except for a 400 square foot area used for mulch storage adjacent to the existing garage and for storage within the existing open carport structure attached to the garage, outside storage shall not be permitted. (P)

### GENERAL INFORMATION

#### Location:

West line of Qualla Road, across from Stockport Drive and known as 5710 Qualla Road.  
Tax ID 746-675-9350 (Sheet 16).

#### Existing Zoning:

Agricultural (A)

#### Size:

2.3 acres

#### Existing Land Use:

Single family dwelling and lawn care contractor's shop

Adjacent Zoning and Land Use:

North, South and West - A; Single family residential on acreage parcels or vacant  
East – R-12 and A; Single family residential or vacant

UTILITIES

Public Water and Wastewater Systems:

This request will not impact the public water and wastewater systems. The existing dwelling is connected to the public water system and wastewater disposal is provided by a private septic system.

Private Well and Septic System:

The Health Department must approve any new septic system or expanded usage of any existing septic system to serve this site.

ENVIRONMENTAL; FIRE SERVICE; AND TRANSPORTATION

This request will have a minimal impact on these facilities.

LAND USE

Comprehensive Plan:

The request lies within the boundaries of the Central Area Plan which suggests the request property is appropriate for residential use of 1.0 to 2.5 dwelling units per acre.

Area Development Trends:

Surrounding properties to the north, south and west are zoned Agricultural (A) and are occupied by single family residential uses on acreage parcels or are vacant. Properties to the east are zoned Agricultural (A) and Residential (R-12) and are occupied by single family residential uses or are vacant. It is anticipated that residential use will continue in the area as recommended by the Plan.

Zoning History:

On April 5, 1995, the Board of Zoning Appeals approved a Special Exception (Case 95AN0240) to permit the operation of a lawn care business incidental to a dwelling unit on the request property subject to conditions relative to transferability, a two (2) year time limitation, the number of employees, hours of operation, delivery restrictions, signage, use within the dwelling and group assembly.

On April 2, 1997, the Board of Zoning Appeals approved renewal of the Special Exception (Case 95AN0240) to permit the operation of a lawn care business incidental to a dwelling unit on the request property (Case 97AR0186). With the approval of this case, the time limitation for the Special Exception was increased to seven (7) years. All other conditions remained the same as with Case 95AN0240. On November 23, 2004, the Board of Supervisors, upon a favorable recommendation from the Planning Commission, approved Conditional Use (Case 04SN0279) to permit a lawn care contractor's business on the request property subject to conditions relative to transferability, time limitation, structures permitted for the use, hours of operation, outside storage and signage. It should be noted that the conditional use did not require the applicants to reside on the premises as the prior permits did.

#### Use and Time Limitations:

The applicants who resided on the property operated the lawn care contractor's shop on the request property for approximately nine (9) years as a Special Exception. The Conditional Use granted in 2004, allowed the use to continue for an additional eighteen (18) months; however, it expired in May 2006. To reiterate, the applicants are not required by the previous, or proposed Conditional Use, to reside on the property.

The applicants are requesting that the Conditional Use be renewed for twelve (12) months while they complete plan approval and construct a new shop on property located within an business park known as the Brandermill Trade Center.

A site plan for this new location was approved on March 23, 2007. To date, the applicants have not applied for land disturbance or building permits in order to commence construction at this new site.

#### Site Design:

Development of the property must meet the minimum requirements for uses within the Agricultural (A) District. Proffered Condition 2 provides that the business will be conducted within the two (2) existing detached accessory structures (garage structure and shed) and no additions or alterations will be permitted to accommodate the use. In addition, Proffered Condition 4 prohibits signs to identify the use and Proffered Condition 6 limits outside storage. These are the same restrictions placed on the prior permit.

### CONCLUSIONS

While the proposed zoning and land use fail to conform with the Central Area Plan which suggests the request property is appropriate for residential use of 1.0 to 2.5 dwelling units per acre, the use has been conducted on the request property without any apparent adverse impact on adjacent properties. In addition, the use is proposed temporarily while construction of a new office and shop are completed on property which is properly zoned for the use. The site plan for the new location was approved on March 9, 2007. As of April 17, 2007, the applicants have not applied for the necessary land disturbance or building permits to commence construction at the new location.

Given these considerations, approval of this request is recommended.

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## CASE HISTORY

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### Planning Commission Meeting (2/20/07):

The applicant indicated the intent to withdraw this case prior to May.

On their own motion, the Commission deferred this case to May 15, 2007.

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### Staff (2/22/07):

The applicant was advised in writing that any new or revised information should be received no later than March 12, 2007, for consideration at the Commission's May 15, 2007, meeting.

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### Staff (4/5/07):

No new or revised information has been received.

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### Planning Commission Meeting (5/15/07):

The applicants requested a deferral to the July Planning Commission meeting. There was opposition to the deferral indicating that the applicants had been operating since April 2004 without the requisite Conditional Use; had ample time to relocate the business; and deferral would only delay the relocation.

Mr. Gulley indicated that the applicants had been pursuing relocation and construction of a permanent facility.

Mr. Gecker expressed concerns that the applicants had previously advised the case would be withdrawn and it would be inappropriate to continue to delay action on the request.

The applicants amended their request to seek a thirty (30) day deferral.

At the request of the applicants, the Commission deferred this case their June 19, 2007, public hearing.

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Staff (5/23/07):

The applicants were advised in writing that any new or revised information should be submitted no later than May 22, 2007, for consideration at the Commission's June public hearing. The applicants were also advised that a \$230.00 deferral fee was due.

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Staff (5/23/07):

To date, no new information has been submitted.

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Applicant (6/18/07):

The deferral fee was paid.

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Planning Commission Meeting (6/19/07):

The applicant accepted staff's recommendation, but did not accept the Commission's recommendation. There was opposition present indicating that the applicants had operated since May 2006 without the requisite Conditional Use; had unnecessarily delayed the relocation of the business; and that the use is incompatible with area residential development.

Mr. Gulley indicated that he had supported lengthy deferrals of the case in anticipation that the business would be relocated and that the pending request would then be withdrawn. He indicated that area property owners had been patient during this period and should not have to endure continued business activity at the site.

On motion of Mr. Gulley, seconded by Mr. Wilson, the Commission recommended denial.

AYES: Messrs. Gecker, Gulley, Bass, Litton and Wilson.

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The Board of Supervisors, on Wednesday, July 25, 2007, beginning at 6:30 p.m., will take under consideration this request.

CONDITIONS – Case 04SN0279

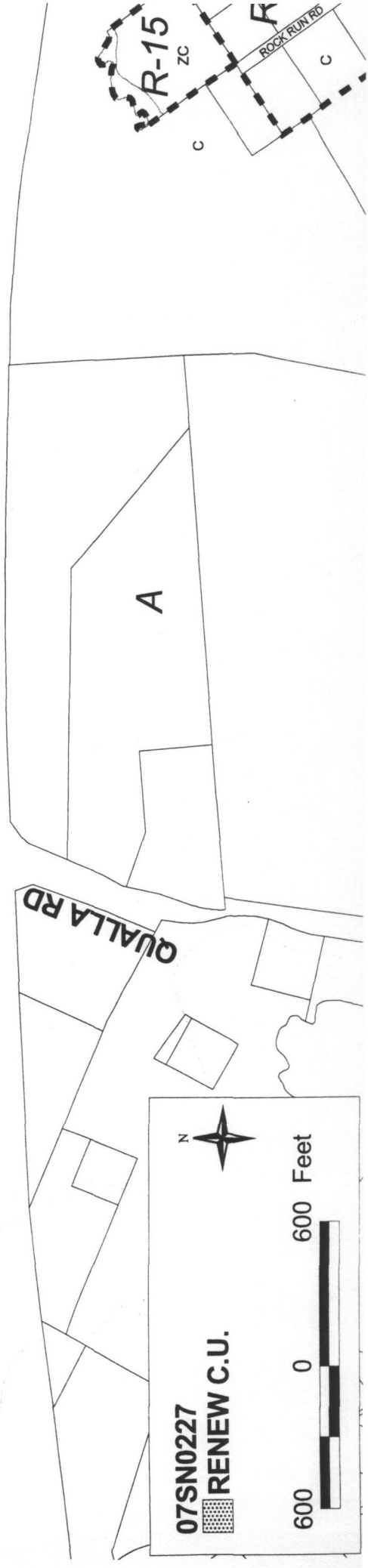
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